

UNITED STATES DEPARTMENT OF EDUCATION
Washington, D.C. 20202

July 1989

GEN-89-38 (LD)

SUMMARY: This letter provides information on the institutional refund requirements in 34 CFR 668.22 as they apply to the State Student Incentive Grant (SSIG) Program.

FINANCIAL AID HANDBOOK REFERENCE: Please refer to Chapter 3, pages 3-37 through 3-64 of the 1989-90 Federal Student Financial Aid Handbook for further information.

Dear State Colleague:

This letter concerns the Federal Title IV institutional refund requirements (34 CFR 668.22) and the State Student Incentive Grant (SSIG) Program.

It has recently come to our attention that State agencies have been implementing the requirements as they apply to the SSIG Program based on an article entitled "Refund Distribution Fraction Must Be Used When Title IV Funds Are Involved" in the June 1980 edition of "The Bulletin" distributed by the Office of Student Financial Assistance. The State agencies, based on their understanding of the article in "The Bulletin," have instructed institutions that all State grants are to be considered Title IV aid in implementing §668.22 of the Student Assistance General Provisions regulations. However, this understanding is not the policy that the article was intended to convey, nor has it ever been the policy of the Department of Education.

The Title IV institutional refund requirements in §668.22 apply to the SSIG Program as a Title IV program. (Section 668.1(c) defines the Title IV programs as including the SSIG Program.) However, the Title IV refund regulations apply only to those State grants which are considered to be Federal SSIGs, i.e., Title IV assistance. To apply the regulations, an institution must know that a State grant is a Federal SSIG before it can treat the State grant as an SSIG in applying the institutional refund requirements. The State can identify the State grant as an SSIG only if two conditions are met. First, the grant must consist of funds from the Federal allotment and the State funds matching that allotment (including State funds matching the Federal allotment in excess of the minimum required match). Second, these funds are all subject to the Federal regulations governing the SSIG Program. If the institution does not know whether the State grant is an SSIG, it must treat the State grant as non-Title IV assistance in applying §668.22 of the Student Assistance General Provisions regulations.

The Department has always maintained this policy in the application of Federal rules under the SSIG Program.

Thus, if a State Agency specifically identifies to an institution a student's State grant as an SSIG, then the institution must consider the funds received by that student under that grant program as Title IV funds for the purposes of §668.22. This consideration would involve (1) including the SSIG amount awarded in both the numerator and denominator of the refund distribution fraction found in §668.22 (a) (3) (ii) of the regulations and (2) considering the SSIG in the amount of Title IV assistance received for the payment period under §668.22 (a) (3) (i). In addition, if a State agency identifies a State grant as an SSIG, an institution must also include it in implementing the other provisions of §668.22 as they apply to Title IV assistance. If, however, an institution does not know whether a State grant is a Federal SSIG because the State agency does not specifically identify a student's grant as a Federal SSIG, then the State grant must be treated as non-Federal aid and included only in the denominator of the refund distribution fraction. The amount of the refund returned to the State grant program would not be included in the Title IV portion of the institutional refund.

Section 668.22 (e) of the regulations requires an institution to develop a written policy for allocating the Title IV program portion of an institutional refund (and student repayments under §668.22(b)) among the Title IV programs from which the student received aid. The institution must apply this policy consistently to all Title IV recipients within the constraints of §668.22 (e). This requirement is an institutional responsibility required by Federal regulations and cannot be superseded by any State laws, regulations, or policies. The provisions of such a written policy are strictly a matter of institutional discretion. State grant programs may not require that an institution allocate the Title IV portion of the institutional refund to the SSIG Program first unless (1) the State agency identifies the State grant as an SSIG and (2) the requirement is part of the institution's agreement with the State agency. The State may not require an institution to allocate refunds to State grants (non-Title IV) other than in the manner allowed in §668.22. Thus, a State may not require a refund to be made to a State grant program before allocation of a refund to the Title IV programs.

Also, under §668.44 of the Student Assistance General Provisions regulations, it should be remembered that an institution must publish its refund policy and its policies regarding the distribution of any refund due to the Title IV programs. An institution may not violate its published policies. Thus, if the requirements of Federal, State, and private student financial assistance programs result in the return to each of these programs a total amount that exceeds a student's refund as calculated under an institution's published refund policy, the institution may not charge the student for additional funds.

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If you have any questions or need further assistance regarding this matter, please contact the SSIG Section at (202) 732-4507.

Sincerely,

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Student Financial Assistance

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Assistance Programs